

1 BILL NO. R-86-10-10

2 RESOLUTION NO. R-8086

3 A RESOLUTION of the Common Council
4 of the City of Fort Wayne, Indiana,
5 recommending and endorsing legislation
6 for the purpose of providing local
community input as to the selection
of hazardous waste facility sites
within the State of Indiana.

7 WITNESSETH:

8 WHEREAS, the existence and operation of hazardous
9 waste and commercial hazardous waste facilities are of particular
10 import and concern to the residents of affected communities;

11 WHEREAS, present Indiana Law does not adequately provide
12 for local community input and decision making relative to site
13 selection of hazardous waste facility sites within the State
14 of Indiana;

15 WHEREAS, local governments within the State of Indiana
16 are concerned with such lack of local input and are further concerned
17 about the effects and ramifications of hazardous waste facilities
18 located within their jurisdictions;

19 WHEREAS, the creation of a role for local communities
20 in the decision making process of the selection of hazardous
21 waste facility sites would further public safety, health and
22 well-being.

23 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL
24 OF THE CITY OF FORT WAYNE, INDIANA:

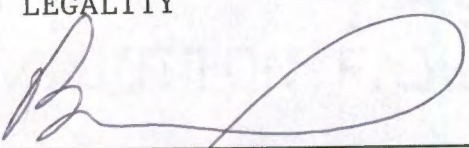
25 SECTION 1. This Common Council does hereby endorse
26 and recommend state legislation that would allow and grant unto
27 local communities a decision making role in the selection of
28 proposed hazardous waste facility sites within the jurisdiction
29 of such local communities. This Common Council urges the Indiana
30 General Assembly and its members to pass legislation that would
31 require any proposed developer of a hazardous waste facility
32 site to first obtain approval from the local community so impacted

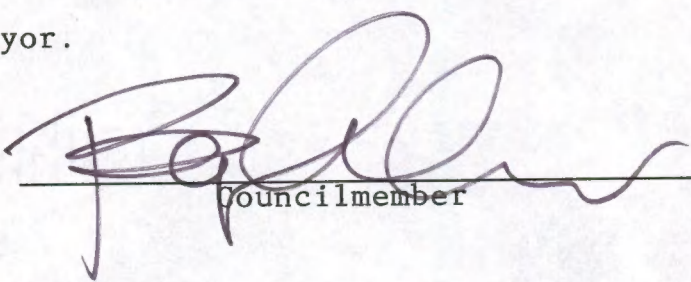
1 and involved. Such requirement would be in addition to all
2 other federal and state laws and regulations governing the con-
3 struction, use and operation of hazardous waste facility sites.
4 It is noted that the placement and operation of all other businesses,
5 except hazardous waste facilities, are regulated to some extent
6 and subject to the approval and/or regulation of and by local
7 communities which are directly impacted and affected by the
8 placement and operation of such businesses within their locales.

9 SECTION 2. To further the purposes of this Resolution,
10 specific endorsement and support is hereby given to the attached
11 proposed Bill. The Common Council urges the General Assembly
12 to endorse, act upon and pass such proposed Bill.

13 SECTION 3. That this Resolution shall be in full
14 force and effect from and after its passage and any and all
15 necessary approval by the Mayor.

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19 APPROVED AS TO FORM
AND LEGALITY

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22 _____
Bruce O. Boxberger, City Attorney
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Councilmember

Read the first time in full and on motion by E. Stier, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ .M., E.

DATE: 10-14-86

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by E. Stier, seconded by Redd, and duly adopted, placed on its passage. PASSED 7 (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	<u>1</u>	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	<u>✓</u>	_____

DATE: 10-28-86

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (~~APPROPRIATION~~) (~~GENERAL~~) (~~SPECIAL~~) (~~ZONING MAP~~) ORDINANCE (RESOLUTION) NO. R-8086 on the 28th day of October, 1986,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of October, 1986, at the hour of 11:00 o'clock P.M., E.S.T.,

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 31 day of October, 1986, at the hour of 4:00 o'clock P.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

A PROPOSED BILL ENTITLED: LOCAL GOVERNMENTAL SITE APPROVAL

I.C. 13-7-8.6-13 is amended by deleting the present Section 13 and replacing therewith the following new Section 13:

SECTION 13(a). Any person, firm or entity who proposes to construct any hazardous waste disposal facility or any commercial hazardous waste facility, or any other operation or business subject to the provisions of this Act, shall first obtain local governmental site approval, as provided in this Section, before such person may file for a certificate of environmental compatibility as required in Sections 5 and 6 hereof. No certificate shall be issued by the Authority without compliance with the terms of this Section 13.

(b) A person desirous of obtaining local governmental approval shall apply to:

- (1) the governing body of the county, if the proposed site is within the unincorporated portions of a county;
- (2) the governing body of a city, if the proposed site is within the corporate limits of a city; or
- (3) the governing body of a town if the proposed site is within the boundaries of the town.

The appropriate local governmental site approval shall thus be obtained from the appropriate governmental body with whom the application is made.

(c) The application for local governmental approval as to be made herein, shall be in writing and shall specify:

- (1) the name and address of the applicant;
- (2) the legal structure of the applicant, e.g., partnership, corporation, etc.;
- (3) the names and addresses of the owners, beneficial and otherwise, of the applicant;
- (4) the location and legal description of the proposed site;
- (5) the nature and size of the development;

- (6) the nature of the activity proposed, including but not limited to a complete description of all transport, storage and processing operations and the specific identification of materials and hazardous waste materials to be handled in any fashion by the operation;
- (7) the number of employees to be employed at the proposed site; and
- (8) the probable life of the proposed site.

(d) Upon receipt of the application, the governing body shall forward the application to its corporation or other legal counsel for purposes of reducing the application to an ordinance that will then be submitted to the governing body for consideration. Such application shall be submitted to the governing body within 30 days from the date of filing of the application.. The appropriate governing body shall then process such ordinance as all other ordinances and/or similar matters that come before it provided, however, that a public hearing shall be scheduled by such governing body.

(e) In considering the application, the governing body shall evaluate same to determine if:

- (1) the facility is necessary to accommodate the waste needs of the area it is intended to serve;
- (2) the facility is so designed, located and proposed to be operated in a fashion that will protect the public health, safety and welfare;
- (3) the facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of surrounding property;
- (4) the plan of operation for the facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents; and
- (5) the traffic patterns to and from the facility are so designed as to minimize the impact on existing traffic flows.

The governing body, in its consideration of the application, shall receive information and technical advice from the unit's employees who are knowledgeable in such matters such as planners, fire and safety employees.

(f) Upon consideration of the application as described herein, the governing body shall so vote on the proposed application as reduced to an ordinance. If the application is not approved by the governing body, then the application shall be deemed denied, subject to applicable judicial review as provided by Indiana Law. The application shall be deemed approved if the ordinance is fully passed and adopted as so prescribed by Indiana Law. In the event of approval, the applicant may then seek a certificate of environmental compatibility as provided for in Sections 5 and 6 hereof.

(g) The local governmental site approval process, as herein provided, shall not be in lieu of any other legal requirements as imposed by the United States Government or the State of Indiana.

(h) Notwithstanding anything herein to the contrary, local governmental approval, as referenced in this Section 13, shall also be required before any owner or operator of a hazardous waste disposal facility, commercial hazardous waste facility or any other operations subject to the provisions of this Act, transfers, sells or assigns majority control of the ownership or a majority of the assets of the operation to any other person, firm or entity. This provision shall apply even though such owner or operator was not required or is not required to obtain a certificate of environmental compatibility.

(i) due to the fact that that an emergency exists, the provisions of this Act shall be effective upon passage.

BILL NO. R-86-10-10

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (~~ORDINANCE~~) (RESOLUTION) of the Common Council
of the City of Fort Wayne, Indiana, recommending and endorsing
legislation for the purpose of providing local community input
as to the selection of hazardous waste facility sites within the
State of Indiana

HAVE HAD SAID (~~ORDINANCE~~) (RESOLUTION) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (~~ORDINANCE~~)
(RESOLUTION)

YES

NO

BEN A. EISBART
CHAIRMAN

JANET G. BRADBURY
VICE CHAIRWOMAN

DONALD J. SCHMIDT

THOMAS C. HENRY

CHARLES B. REDD

CONCURRED IN 10-28-86

SANDRA E. KENNEDY
CITY CLERK